

EXHIBIT E

JARED BOBROW (Bar No. 133712)
jared.bobrow@weil.com
JOSEPH H. LEE (Bar No. 248046)
joseph.lee@weil.com
WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3000
Facsimile: (650) 802-3100

KEVIN KUDLAC (*pro hac vice*)
kevin.kudlac@weil.com
WEIL, GOTSHAL & MANGES LLP
8911 Capital of Texas Highway
Building One, Suite 1350
Austin, TX 78759
Telephone: (512) 349-1930
Facsimile: (512) 527-0798

Attorneys for Defendant
LEXAR MEDIA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JENS ERIK SORENSEN, as Trustee of
SORENSEN RESEARCH AND
DEVELOPMENT TRUST,

Plaintiff,

v.

LEXAR MEDIA, INC., a Delaware corporation;
and DOES 1 - 100,

Defendants.

Case No. C08-00095 JW RS

LEXAR MEDIA, INC.'S RESPONSES TO
REQUEST FOR PRODUCTION OF
DOCUMENTS

(SET ONE) NOS. 1 through 11

The Honorable James Ware

**HIGHLY CONFIDENTIAL –
ATTORNEY'S EYES ONLY**

**LEXAR MEDIA, INC.'S RESPONSES TO PLAINTIFF'S FIRST SET OF REQUEST
FOR PRODUCTION OF DOCUMENTS (NOS. 1 through 11)**

Pursuant to Federal Rules of Civil Procedure 26 and 34 and Local Rule 34-1,
Lexar Media, Inc. ("Lexar") hereby responds and objects to Plaintiff Jens Erik Sorensen, as
Trustee of Sorensen Research and Development Trust's ("Plaintiff") Request for Production of
Documents (Set One) Nos. 1 through 11 ("Plaintiff's Request for Production") as follows:

RESPONSES TO REQUEST FOR PRODUCTION

The following General Objections are incorporated into each Specific Objection and Response as if fully set forth therein:

A. Lexar objects to each of Plaintiff's Request for Production to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity from discovery.

B. Lexar objects to each of Plaintiff's Request for Production to the extent it seeks information that is confidential, proprietary, and/or trade secret information, and will provide such information subject to the terms of the protective order entered in this case.

C. Lexar objects to each of Plaintiff's Request for Production to the extent it seeks information that is the confidential, proprietary, and/or trade secret information of a third party that is in Lexar's possession subject to an obligation to a third party. Lexar will provide such information only to the extent it can do so consistent with its obligations to such third parties and subject to the terms of the protective order entered in this case.

D. Lexar objects to Plaintiff's Request for Production, including the definitions contained therein, to the extent they seek to impose obligations above and beyond those imposed by the Federal Rules of Civil Procedure or the Court's Local Rules.

E. Lexar objects to Plaintiff's Request for Production to the extent they seek information about acts or events that are not acts of infringement under the patent laws of the United States, or about other information that is not relevant to a claim or defense in this action. Lexar's responses to these requests for production do not constitute an admission that any acts or events described herein or in any documents produced by Lexar are appropriately subject to further discovery in this action. Lexar reserves all its rights.

F. Lexar's investigation and discovery is ongoing. Lexar will supplement these responses as appropriate as further information becomes available in accordance with the Federal Rules of Civil Procedure and the Court's Local Rules.

1 G. Lexar objects to Plaintiff's definition of "Accused Products" as vague,
2 ambiguous, and overly broad, particularly in its use of the phrase "similar processes," as it does
3 not, *inter alia*, limit the definition to processes claimed in U.S. Patent No. 4,935,184.

4 H. Lexar objects to the place of production pursuant to the Federal Rules of
5 Civil Procedure. Documents responsive to Plaintiff's Request for Production will be made
6 available at the offices of Weil, Gotshal & Manges LLP, 201 Redwood Shores Parkway,
7 Redwood Shores, California 94070, at a date and time agreeable to the parties.

8 Subject to and without waiving its General Objections, Lexar objects and responds
9 to Plaintiff's Request for Production as follows:

10 **SPECIFIC OBJECTIONS AND RESPONSES**

11 **REQUEST FOR PRODUCTION NO. 1:**

12 All DOCUMENTS identified in Lexar's Initial Disclosures, Section II, Nos. 1-4,
13 inclusive. A reference copy is attached hereto.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

15 In addition to its general objections, Lexar objects to this document request as
16 unreasonably cumulative or duplicative and to the extent that the information or documents
17 requested can be obtained from some other source that is more convenient, less burdensome, or
18 less expensive. In addition, Lexar objects to this document request as premature in light of the
19 timetable provided in the Patent Local Rules, to the extent the request is for the categories of
20 documents enumerated in Patent L.R. 2-5. Lexar further objects to this document request to the
21 extent it seeks information that is the confidential, proprietary, and/or trade secret information of
22 a third party that is in Lexar's possession subject to an obligation to a third party. Lexar will
23 provide such information only to the extent it can do so consistent with its obligations to such
24 third parties. Lexar also objects to this document request to the extent it seeks documents from
25 sources that are not reasonably accessible because of undue burden or cost. Subject to and
26 without waiving its objections, Lexar responds as follows:

27 Lexar will produce and/or make available for inspection non-privileged, non-
28 immune responsive documents that Lexar may use to support its claims or defenses to the extent

1 such exist, are within its possession, custody, or control, and can be located after a reasonable
2 search.

3 **REQUEST FOR PRODUCTION NO. 2:**

4 All contracts and/or agreements between Lexar and any third party relating to the
5 design, specification, manufacture, assembly, import, distribution, sale, and/or offer for sale of
6 any of the Accused Products.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

8 In addition to its general objections, Lexar objects to this document request as
9 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
10 of admissible evidence, particularly in its use of "design," "specification," "assembly," and
11 "distribution" and to the extent that it requests "[a]ll contracts and/or agreements." Lexar further
12 objects to this document request to the extent it seeks information that is the confidential,
13 proprietary, and/or trade secret information of a third party that is in Lexar's possession subject to
14 an obligation to a third party. Lexar will provide such information only to the extent it can do so
15 consistent with its obligations to such third parties. Lexar also objects to this document request to
16 the extent it seeks documents from sources that are not reasonably accessible because of undue
17 burden or cost. Subject to and without waiving its objections, Lexar responds as follows:

18 Lexar will produce and/or make available for inspection non-privileged, non-
19 immune, responsive documents to the extent such exist, are within its possession, custody, or
20 control, and can be located after a reasonable search.

21 **REQUEST FOR PRODUCTION NO. 3:**

22 All DOCUMENTS constituting, reflecting, relating to, or concerning any
23 communications made to any third party relating to the '184 patent, specifically including any
24 communications to manufacturers of any Accused Products.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

26 In addition to its general objections, Lexar objects to this document request as
27 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
28 of admissible evidence, particularly in its use of "constituting," "reflecting," "relating to," and

1 “concerning” and to the extent it requests “[a]ll DOCUMENTS.” Lexar also objects to this
2 document request as premature in light of the timetable provided in the Patent Local Rules, to the
3 extent the request is for the categories of documents enumerated in Patent L.R. 2-5. Lexar also
4 objects to this request to the extent it seeks information protected by the attorney-client privilege,
5 the work product doctrine, or any other applicable privilege or immunity from production. Lexar
6 further objects to this document request to the extent it seeks information that is the confidential,
7 proprietary, and/or trade secret information of a third party that is in Lexar’s possession subject to
8 an obligation to a third party. Lexar will provide such information only to the extent it can do so
9 consistent with its obligations to such third parties. Lexar also objects to this document request to
10 the extent it seeks documents from sources that are not reasonably accessible because of undue
11 burden or cost. Subject to and without waiving its objections, Lexar responds as follows:

12 Lexar will produce and/or make available for inspection non-privileged, non-
13 immune, responsive documents to the extent such exist, are within its possession, custody, or
14 control, and can be located after a reasonable search.

15 **REQUEST FOR PRODUCTION NO. 4:**

16 All DOCUMENTS constituting communications made by Lexar, its officers,
17 employees, consultants, agents, or counsel to third parties reflecting, relating to, or concerning,
18 the manufacturing process used to manufacture any of the Accused Products, specifically
19 including any such communications made by Lexar’s counsel to third parties.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

21 In addition to its general objections, Lexar objects to this document request as
22 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
23 of admissible evidence, particularly in its use of “constituting,” “reflecting,” “relating to,” and
24 “concerning” and to the extent it requests “[a]ll DOCUMENTS.” Lexar also objects to this
25 document request as premature in light of the timetable provided in the Patent Local Rules, to the
26 extent the request is for the categories of documents enumerated in Patent L.R. 2-5. Lexar also
27 objects to this request to the extent it seeks information protected by the attorney-client privilege,
28 the work product doctrine, or any other applicable privilege or immunity from production. Lexar

1 further objects to this document request to the extent it seeks information that is the confidential,
2 proprietary, and/or trade secret information of a third party that is in Lexar's possession subject to
3 an obligation to a third party. Lexar will provide such information only to the extent it can do so
4 consistent with its obligations to such third parties. Lexar also objects to this document request to
5 the extent it seeks documents from sources that are not reasonably accessible because of undue
6 burden or cost. Subject to and without waiving its objections, Lexar responds as follows:

7 Lexar will produce and/or make available for inspection non-privileged, non-
8 immune, responsive documents to the extent such exist, are within its possession, custody, or
9 control, and can be located after a reasonable search.

10 **REQUEST FOR PRODUCTION NO. 5:**

11 All DOCUMENTS constituting, reflecting, relating to, or concerning any
12 communications made by any third party relating to the '184 patent, specifically including any
13 communications from manufacturers of any Accused Products.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

15 In addition to its general objections, Lexar objects to this document request as
16 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
17 of admissible evidence, particularly in its use of "constituting," "reflecting," "relating to," and
18 "concerning" and to the extent it requests "[a]ll DOCUMENTS." Lexar also objects to this
19 document request as premature in light of the timetable provided in the Patent Local Rules, to the
20 extent the request is for the categories of documents enumerated in Patent L.R. 2-5. Lexar also
21 objects to this request to the extent it seeks information protected by the attorney-client privilege,
22 the work product doctrine, or any other applicable privilege or immunity from production. Lexar
23 further objects to this document request to the extent it seeks information that is the confidential,
24 proprietary, and/or trade secret information of a third party that is in Lexar's possession subject to
25 an obligation to a third party. Lexar will provide such information only to the extent it can do so
26 consistent with its obligations to such third parties. Lexar also objects to this document request to
27 the extent it seeks documents from sources that are not reasonably accessible because of undue
28 burden or cost. Subject to and without waiving its objections, Lexar responds as follows:

1 Lexar will produce and/or make available for inspection non-privileged, non-
2 immune, responsive documents to the extent such exist, are within its possession, custody, or
3 control, and can be located after a reasonable search.

4 **REQUEST FOR PRODUCTION NO. 6:**

5 All DOCUMENTS describing or depicting the manufacturing processes used to
6 form any of the Accused Products.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

8 In addition to its general objections, Lexar objects to this document request as
9 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
10 of admissible evidence, particularly in its use of “describing” and “depicting” and to the extent it
11 requests “[a]ll DOCUMENTS.” Lexar also objects to this document request as premature in light
12 of the timetable provided in the Patent Local Rules, to the extent the request is for the categories
13 of documents enumerated in Patent L.R. 2-5. Lexar also objects to this request to the extent it
14 seeks information protected by the attorney-client privilege, the work product doctrine, or any
15 other applicable privilege or immunity from production. Lexar further objects to this document
16 request to the extent it seeks information that is the confidential, proprietary, and/or trade secret
17 information of a third party that is in Lexar’s possession subject to an obligation to a third party.
18 Lexar will provide such information only to the extent it can do so consistent with its obligations
19 to such third parties. Lexar also objects to this document request to the extent it seeks documents
20 from sources that are not reasonably accessible because of undue burden or cost. Subject to and
21 without waiving its objections, Lexar responds as follows:

22 Lexar will produce and/or make available for inspection non-privileged, non-
23 immune, responsive documents to the extent such exist, are within its possession, custody, or
24 control, and can be located after a reasonable search.

25 **REQUEST FOR PRODUCTION NO. 7:**

26 All DOCUMENTS describing or depicting the molds and other production tooling
27 used in the manufacturing processes that form any of the Accused Products.
28

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

In addition to its general objections, Lexar objects to this document request as vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, particularly in its use of “describing” and “depicting” and to the extent it requests “[a]ll DOCUMENTS.” Lexar also objects to this document request as premature in light of the timetable provided in the Patent Local Rules, to the extent the request is for the categories of documents enumerated in Patent L.R. 2-5. Lexar also objects to this request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity from production. Lexar further objects to this document request to the extent it seeks information that is the confidential, proprietary, and/or trade secret information of a third party that is in Lexar’s possession subject to an obligation to a third party. Lexar will provide such information only to the extent it can do so consistent with its obligations to such third parties. Lexar also objects to this document request to the extent it seeks documents from sources that are not reasonably accessible because of undue burden or cost. Subject to and without waiving its objections, Lexar responds as follows:

Lexar will produce and/or make available for inspection non-privileged, non-immune, responsive documents to the extent such exist, are within its possession, custody, or control, and can be located after a reasonable search.

REQUEST FOR PRODUCTION NO. 8:

All DOCUMENTS identifying all witnesses that have personal knowledge of the manufacturing processes used to form any of the Accused Products.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

In addition to its general objections, Lexar objects to this document request as vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, particularly in its use of “identifying” and to the extent it requests “[a]ll DOCUMENTS.” Lexar also objects to this request to the extent it seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity from production. Lexar further objects to this document request to the extent it seeks

1 information that is the confidential, proprietary, and/or trade secret information of a third party
2 that is in Lexar's possession subject to an obligation to a third party. Lexar will provide such
3 information only to the extent it can do so consistent with its obligations to such third parties.
4 Lexar also objects to this request to the extent it requires Lexar to divulge the private information
5 of third parties in violation of those third parties' rights to privacy under applicable law. Lexar
6 also objects to this document request to the extent it seeks documents from sources that are not
7 reasonably accessible because of undue burden or cost. Subject to and without waiving its
8 objections, Lexar responds as follows:

9 Lexar will produce and/or make available for inspection non-privileged, non-
10 immune, responsive documents to the extent such exist, are within its possession, custody, or
11 control, and can be located after a reasonable search.

12 **REQUEST FOR PRODUCTION NO. 9:**

13 All DOCUMENTS identifying the company that made the tooling for use in the
14 manufacture of the Accused Products.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

16 In addition to its general objections, Lexar objects to this document request as
17 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
18 of admissible evidence, particularly in its use of "identifying" and to the extent it requests "[a]ll
19 DOCUMENTS." Lexar also objects to this request to the extent it seeks information protected by
20 the attorney-client privilege, the work product doctrine, or any other applicable privilege or
21 immunity from production. Lexar further objects to this document request to the extent it seeks
22 information that is the confidential, proprietary, and/or trade secret information of a third party
23 that is in Lexar's possession subject to an obligation to a third party. Lexar will provide such
24 information only to the extent it can do so consistent with its obligations to such third parties.
25 Lexar also objects to this document request to the extent it seeks documents from sources that are
26 not reasonably accessible because of undue burden or cost. Subject to and without waiving its
27 objections, Lexar responds as follows:
28

1 Lexar will produce and/or make available for inspection non-privileged, non-
2 immune, responsive documents to the extent such exist, are within its possession, custody, or
3 control, and can be located after a reasonable search.

4 **REQUEST FOR PRODUCTION NO. 10:**

5 All DOCUMENTS identifying, by company name, address, and contact person,
6 where the Accused Products are assembled after the plastic casing is made.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

8 In addition to its general objections, Lexar objects to this document request as
9 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery
10 of admissible evidence, particularly in its use of "identifying," "assembled," and "plastic casing"
11 and to the extent it requests "[a]ll DOCUMENTS." Lexar also objects to this request to the
12 extent it seeks information protected by the attorney-client privilege, the work product doctrine,
13 or any other applicable privilege or immunity from production. Lexar further objects to this
14 document request to the extent it seeks information that is the confidential, proprietary, and/or
15 trade secret information of a third party that is in Lexar's possession subject to an obligation to a
16 third party. Lexar will provide such information only to the extent it can do so consistent with its
17 obligations to such third parties. Lexar also objects to this document request to the extent it seeks
18 documents from sources that are not reasonably accessible because of undue burden or cost.
19 Subject to and without waiving its objections, Lexar responds as follows:

20 Lexar will produce and/or make available for inspection non-privileged, non-
21 immune, responsive documents to the extent such exist, are within its possession, custody, or
22 control, and can be located after a reasonable search.

23 **REQUEST FOR PRODUCTION NO. 11:**

24 Documents sufficient to identify the owners and/or licensees of any designs that
25 are incorporated in the Accused Products.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

27 In addition to its general objections, Lexar objects to this document request as
28 vague, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery

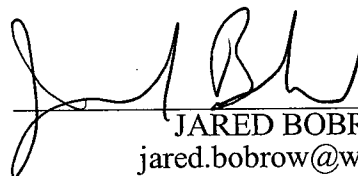
1 of admissible evidence, particularly in its use of “identifying” and “designs.” Lexar also objects
2 to this request to the extent it seeks information protected by the attorney-client privilege, the
3 work product doctrine, or any other applicable privilege or immunity from production. Lexar
4 further objects to this document request to the extent it seeks information that is the confidential,
5 proprietary, and/or trade secret information of a third party that is in Lexar’s possession subject to
6 an obligation to a third party. Lexar will provide such information only to the extent it can do so
7 consistent with its obligations to such third parties. Lexar also objects to this document request to
8 the extent it seeks documents from sources that are not reasonably accessible because of undue
9 burden or cost. Subject to and without waiving its objections, Lexar responds as follows:

10 Lexar will produce and/or make available for inspection non-privileged, non-
11 immune, responsive documents to the extent such exist, are within its possession, custody, or
12 control, and can be located after a reasonable search.

13
14
15 Dated: August 6, 2008

WEIL, GOTSHAL & MANGES LLP

16
17 By:



JARED BOBROW
jared.bobrow@weil.com

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19 Attorneys for Defendant
20 LEXAR MEDIA, INC.
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CERTIFICATE OF SERVICE

I am a citizen of the United States, more than 18 years old, and not a party to this action. My place of employment and business address is 201 Redwood Shores Parkway, Redwood Shores, California, 94065-1175. On August 6, 2008, I caused copy(ies) of:

LEXAR MEDIA, INC.'S RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS
(SET ONE) NOS. 1 through 11

to be served on Plaintiff as follows:

[XX] BY OVERNIGHT DELIVERY by placing a true copy thereof enclosed in a sealed envelope with overnight delivery fees provided for, addressed as follows, for collection by Federal Express in accordance with this firm's ordinary business practices. I am readily familiar with this firm's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course of this firm's business practice the document(s) described above will be deposited by an employee or agent in a box or other facility regularly maintained by Federal Express.

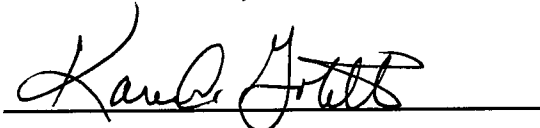
[XX] BY EMAIL of .pdf documents.

J. Michael Kaler
Kaler Law Offices
9930 Mesa Rim Road, Suite 200
San Diego, CA 92121
Telephone: 858-362-3151
michael@kalerlaw.com
BY EMAIL AND FEDERAL EXPRESS

Melody A. Kramer
Kramer Law Offices, Inc.
9930 Mesa Rim Road, Suite 1600
San Diego, CA 92121
Telephone: 858-362-3150
mak@kramerlawip.com
BY EMAIL ONLY

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 6, 2008 at Redwood Shores, California.



Karen A. Gotelli